

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)	
)	Group Art Unit 3635
Robert T. Long)	
)	
Serial No. 10/033,216)	Examiner: B. Katcheves
Filed: December 26, 2001)	Appeal No.:
For: Wide-Body Connector for Concrete)	
Sandwich Wall)	

APPELLANT'S REPLY BRIEF

Status of Claims

The application was filed December 26, 2001. Claims 25-38 have been presented in the application. Claims 25-38 have been rejected and are pending in this application. Appellant is appealing the rejections of claims 25-38. Claims 1-24 have been cancelled.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Claims 25-28 and 37 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,138,981 to Keith.

Claims 29-34, 36 and 38 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,138,981 to Keith.

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,138,981 to Keith.

ARGUMENT

1. **The Examiner's Rejections of the Claims Under Sections 102 and 103, as Provided in the Examiner's Brief**

The Examiner's Brief does nothing to clarify or correct the mistakes in the office actions. The Keith connectors do not show several of the elements claimed. Most notably, the Keith connectors do not show longitudinally extending elements that extend the length of the body that are **laterally spaced apart** and connected by an **internal** web that **runs the length of the body**. There is no way that Keith can be construed to show connectors with longitudinal elements that arranged in the specific way that Applicant's connectors have been claimed.

Applicant will not describe all of the specific mistakes or confusing statements made by the Examiner because the Examiner's Brief merely repeats the rejections as written in the office actions. Applicant's Brief fully argues Applicant's position. Applicant points out, by way of example though, the first section of the Examiner's Brief (first Section 102 rejection). The Examiner cites to Fig. 3, element 22, yet Fig. 3 does not include a reference numeral 22. Further, Applicant cannot make any sense of the following statement:

The body has longitudinal portions (Fig. 3: see front and back longitudinal sides which are perpendicular to upper web 92 and bottom web 22) which extend longitudinally for the length of the body, and the longitudinal portions are laterally spaced apart by a web (web 92 thickness extends the length of the connector...

Applicant's best guess is that the Examiner's longitudinal portions are the segments on either side of the indentation (not labeled in the figures, but the examiner calls it 92). These portions, though, do not have both (opposite) ends embedded in the concrete (one end in concrete, other end terminates at the "web", thus it doesn't meet the claim limitation), and the "web" that is between them does not run the length of the body.

The second Section 102 rejection and the Section 103 rejection are also confusing and incorrect. Please see Applicant's original Brief for a full explanation of Applicant's position.

2. **Rebuttal of Examiner's Response to Applicant's Arguments**

The Examiner's Response to Applicant's Arguments is plainly wrong. First, the statement that Applicant has only claimed the structural limitation "longitudinal" is absolutely incorrect. In addition to being longitudinal, the claims require the longitudinal portions to have opposite ends embedded in the concrete. The claims require the longitudinal portions to be laterally spaced apart. The claims require the longitudinal portions to be laterally spaced and separated by an internal web that runs the length of the body. The examiner's response ignores all of these structural limitations.

The Response also misstates and misconstrues Applicant's arguments. For example, the Response states that Applicant argues that reference number 92 is the entire connector. Applicant was not arguing the merits of the case based on any particular reference number. Applicant was merely pointing out yet another mistake in the office actions (and repeated in the Examiner's Brief) that has contributed to Applicant's frustration with trying to respond. Reference numeral 92 is used in the Keith patent to describe the entire connector, not a web. The Examiner uses it to find a "web" in Keith.

The Examiner is also incorrect in the statement that the ends and the adjacent surfaces are the same. There are two claimed limitations: the ends of the connector and the **adjacent** anchorage surfaces. They are not the same; Applicant would not have included two separate structures if it only meant one. Claims must be interpreted in a way that gives meaning to each and every claim term. There is no antecedent basis in Applicant's claims to signify that the

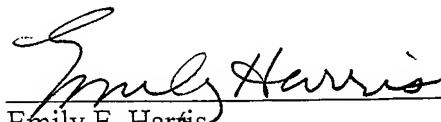
adjacent anchorage surfaces are contained within or are actually the ends of the connector. See NTP, Inc. v. Research In Motion, Ltd., 418 F.3d 1282 (Fed. Cir. 2005) (All claim terms are presumed to have meaning); Biocon v. Straumann Co., 441 F.3d 945 (Fed. Cir. 2006) (holding that claim language should not be interpreted in a way to render claim terms meaningless). The examiner repeatedly states that the ends of the connectors have an inherent surface, thus the adjacent anchoring surfaces can be found in the ends of the Keith connectors. This is an improper reading of the claim language, which excludes the "adjacent anchoring surfaces" language altogether.

Finally, the Examiner's statements regarding the lip's location in the concrete are just wrong; the Examiner states that the claims don't require the lip to be in the concrete. Claim 27 describes the lip. Claim 27 depends on claim 25, which requires the connectors to be embedded in the concrete, therefore the lip in 27, which is part of the connector, must be embedded in the concrete too. The "lip" identified by the examiner in the Keith patent is outside of the concrete and the concrete forms. Therefore, Keith does not have a connector with a lip as claimed by Applicant. It is impossible for a connector that is embedded in concrete to have a lip that is outside of the concrete.

For the reasons described above and provided in Applicant's initial Brief, Applicant respectfully requests reversal of the examiner's rejections and passage of this application to allowance.

Respectfully submitted,

Date: 1/25/10


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